

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CONSUMER SOLUTIONS REO, LLC,

No. C-08-4357 EMC

Plaintiff,

v.

RUTHIE B. HILLERY, *et al.*,

Defendants.

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT'S EX
PARTE APPLICATION TO CONTINUE
OR EXTEND DEADLINE****(Docket No. 87)**

Ruthie B. Hillery has filed an ex parte application, asking that the Court either continue the hearing on Saxon's motion to dismiss or give her additional time to file an opposition to the motion to dismiss. Saxon has opposed the motion. Having considered the parties' briefs and accompanying submissions, as well as all other evidence of record, the Court hereby **GRANTS** in part and **DENIES** in part Ms. Hillery's request.

The Court shall not continue the hearing on Saxon's motion to dismiss. Saxon's motion to dismiss should be heard on the same date as Consumer Solutions's motion to dismiss because of the overlapping issues. Because Consumer Solutions filed its motion back in October 2009, the Court is not willing to push back the hearing on Consumer Solutions's motion any further.

While, because of the overlapping issues, the Court could arguably deem Ms. Hillery's opposition to Consumer Solutions's motion as her opposition to Saxon's motion (as suggested by Saxon), the Court shall give Ms. Hillery an opportunity to file an opposition to Saxon's motion. Ms.

Hillery shall have until **5:00 p.m., December 10, 2009**, to file an opposition to Saxon's motion.¹
Saxon shall then have until **5:00 p.m., December 17, 2009**, to file a reply brief. The hearing on
both Saxon and Consumer Solutions's motions shall remain on December 23, 2009.

This order disposes of Docket No. 87.

IT IS SO ORDERED.

Dated: December 10, 2009


EDWARD M. CHEN
United States Magistrate Judge

¹ The Court acknowledges Ms. Hillery's request that she be given until the end of the day on December 11, 2009, to file an opposition. This request, however, cannot be accommodated because Saxon must have a fair opportunity to reply and the Court a reasonable opportunity to review the briefs in advance of the hearing. The Court also notes that it is not an unreasonable burden to require Ms. Hillery to file her opposition by December 10, 2009, because of the overlapping issues with the other motion to dismiss. Also, her attorney has been aware of the need to prepare an opposition since at least December 8, 2009. As a final point, the Court notes that, while it is not entirely unsympathetic to the claim of miscalendaring, the clerk's notice clearly specified that the opposition was due on December 2, 2009. *See* Docket No. 80 (clerk's notice).